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Attorneys for Defendant
WALMART, INC.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RODNEY EDWARD BOWSER,

Plaintiff,

vs.

WALMART INC.; and DOES 1 to 50,
inclusive,

Defendants.

Case No.:
Hon.
Ctrm.

**NOTICE OF REMOVAL OF
ACTION PURSUANT TO 28 U.S.C.
SECTIONS 1332 AND 1441(a)
and (b)**

Action Filed: June 26, 2023
Removal Filed: August 28, 2023

**TO THE CLERK OF THE ABOVE-ENTITLED COURT, TO THE PARTIES,
AND TO THEIR ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that Defendant WALMART, INC. ("Walmart"), by and through its counsel, hereby removes the above-entitled action filed by Plaintiff Rodney Edward Bowser ("Plaintiff") in the Superior Court of the State of California, County of Kern, Case No. BCV-23-102035 to the United States District Court, Eastern District of California pursuant to 28 U.S.C. §1441, and respectfully alleges as follows:

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1 1. On June 26, 2023, an action was commenced in the Superior Court of
2 the State of California, County of Kern, entitled *Rodney Edward Bowser v. Walmart,*
3 *Inc.*, Case Number BCV-23-102035 (“the State Action”). A copy of the complaint
4 filed in the State Action is attached hereto as **Exhibit “1.”**

5 2. Walmart was served with a copy of the Complaint filed in the State
6 Action and a Summons from the State Court on July 28, 2023. A copy of the
7 Summons is attached hereto as **Exhibit “2.”**

8 3. On August 25, 2023, Walmart timely filed its Answer to Plaintiff’s
9 Complaint, attached hereto as **Exhibit “3”**.

10 4. Based on a review of the State Court file as of August 28, 2023, no
11 other Defendant has been served with any Summons or Complaint in the State
12 Action.

13 5. Plaintiff’s Complaint purports to assert causes of action based in
14 premises liability and negligence. Plaintiff’s Complaint seeks to recover damages
15 for lost wages, loss of earning capacity, hospital and medical expenses, past and
16 future medical expenses, and past and future general damages.

17 **DIVERSITY JURISDICTION UNDER 28 U.S.C. § 1332 (A)**

18 6. This Court has jurisdiction over this matter under 28 U.S.C. section
19 1332(a)(1), because there is complete diversity as the parties are citizens of different
20 states, and the amount in controversy exceeds \$75,000.00, exclusive of interest and
21 costs. Removal is therefore proper pursuant to 28 U.S.C. sections 1441 (a) and (b).

22 **a. Plaintiff is a Citizen of California**

23 7. Plaintiff is domiciled in and is presently a citizen of the State of
24 California. Pursuant to the Complaint, Plaintiff contends that she is domiciled in the
25 State of California, and a present citizen of California.

26 **b. Plaintiff Claims Damages in Excess of \$75,000**

27 8. Plaintiff claims approximately \$3,000,000 in damages. Attached hereto
28 as **Exhibit “4”** is Plaintiff’s Statement of Damages dated July 20, 2023.

1 Accordingly, the amount in controversy, exclusive of costs and interests, exceeds the
2 minimum requirement required for diversity jurisdiction under 28 U.S.C. section
3 1332(a).

4 **c. Walmart is a Citizen of Delaware**

5 9. Walmart is a citizen of Delaware where it is incorporated, and of
6 Arkansas, where it holds its principal place of business (in Bentonville, Arkansas).
7 Copies of Walmart's corporate information from the California Secretary of State
8 Business Search and the Arkansas Secretary of Business/Commercial Services are
9 attached hereto as **Exhibits "5" and "6,"** respectively.

10 10. Because the State Action is pending in the Superior Court of California
11 in and for the County of Kern, removal of this action to this District Court is proper
12 under 28 U.S.C. section 1441(a).

13 11. Removal is timely under 28 U.S.C. section 1446(b) because this Notice
14 of Removal is filed within 30 days of Walmart being served with the complaint that
15 indicated Plaintiff is a citizen of the State of California and that the total amount in
16 controversy exceeds the jurisdictional requirements of \$75,000, exclusive of costs
17 and interests.

18 12. Written notice of the filing of this Notice of Removal will be promptly
19 served on Plaintiff. A true and correct copy of this Notice of Removal and the
20 concurrently filed Notice of Interested Parties and Civil Cover Sheet will be filed
21 with the Clerk of the Superior Court of the State of California in and for the County
22 of Kern as soon as practicable.

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1 **WHEREFORE**, Walmart requests that the above-entitled action be removed
2 from the Superior Court of the State of California, County of Kern to the United
3 States District Court.

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5 Dated: August 28, 2023

BURGER | MEYER ^{LLP}

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7 */s/ Bron E. D'Angelo*

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Bron E. D'Angelo, Esq.
Attorneys for Defendant
WALMART, INC.